

Exhibit K

WOLLMUTH MAHER & DEUTSCH LLP

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NEW YORK, NEW YORK 10110

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FAX TRANSMISSION COVER SHEET

Date:	May 2, 2007		
To:	Benjamin A. Powell, Esq. General Counsel	Fax:	202-201-1198
Company:	Office of the Director of National Intelligence	Phone:	202-201-1039
Subject:		Direct Dial:	
From:	David B. Smallman, Esq.		

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VIA FAX

(202) 201-1198

May 2, 2007

Benjamin A. Powell, Esq.
General Counsel
Office of the Director of National Intelligence
Washington, D.C. 20505

Dear Mr. Powell:

I represent Valerie Plame Wilson and am writing in connection with CIA's pre-publication review of her memoir entitled "Fair Game" and to follow up on my April 27 letter to J. Michael McConnell ("April 27 Letter") regarding Mr. McConnell's statutory oversight authority, as the Director of National Intelligence ("DNI"), "to ensure compliance with the Constitution and laws of the United States by the Central Intelligence Agency" 50 U.S.C. § 403-1(f)(1)(B)(4).

My office confirmed your receipt of a copy of the April 27 Letter, with attachments, on Monday morning, April 30, 2007. In response to my request to schedule a telephone call regarding the matters addressed in the April 27 Letter, my office was informed that you were unavailable to speak with me this week, but that "an appropriate staff member" was reviewing the April 27 Letter. In response to a subsequent request for the name of the staff member to whom you had assigned the task of looking into the April 27 Letter, my office was informed that the name of the staff member could not be provided until the end of this week.

I appreciate, as indicated by your staff, that there are many pressing demands at present upon your time and Mr. McConnell's time. Nevertheless, because of the First Amendment injury described in the April 27 Letter and the urgent nature of the request to Mr. McConnell set forth therein, a full week provides a sufficient time frame for your office and the DNI to review and respond appropriately to the April 27 Letter. With all due respect, any further delay in providing a proper response beyond that time would be unreasonable under the circumstances presented.

As more fully described in the April 27 Letter, Ms. Wilson has worked diligently for months with CIA's Publications Review Board to fulfill her obligations to protect national security. Ms. Wilson is not seeking *carte blanche* to discuss her entire government service or to reveal any classified information, and she has scrupulously complied in every respect with her legal obligations. CIA also has an obligation to comply with the Constitution and laws of the United States with respect to disclosure of officially acknowledged information. *Compare Wolf*

Benjamin A. Powell, Esq.
General Counsel
Office of the Director of National Intelligence
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v. CIA, 473 F.3d 370, 378 (D.C. Cir. 2007) (explaining “official acknowledgment” doctrine applied by federal courts) and *Peay v. DOJ*, No. 04-1859 (CKK), 2007 U.S. Dist. LEXIS 17586 *10-11 (D.D.C. March 14, 2007) (applying three part test and requiring disclosure) *with* January 16, 2007 Cong. Rec. E118-E119 (Introduction of the Valerie Plame Wilson Compensation Act - Extensions of Remarks) (reprinting redacted annuity letter dated February 10, 2006 from CIA listing dates of Ms. Wilson’s federal service) (visited May 2, 2007) <<http://www.thomas.gov>>.

As stated in the April 27 Letter, CIA’s obligation extends to its legal duty to ensure that the Agency’s pre-publication review process is reasonably structured to prevent publication only of properly classified materials. When CIA fails to do so, as has occurred here, the DNI can and should require prompt corrective action.

I am available to speak with you at your convenience, and although I will be out of town for the rest of the week, can be reached at any time by cell phone (917.414.0182) or through my office during regular business hours (212.382.3300, ext. 349). If I do not receive a full response from your office or the DNI by 6 p.m. EDT on Friday, May 4, 2007, I will assume that Mr. McConnell, in his official capacity as DNI, does not intend to take any action with respect to the April 27 Letter. Ms. Wilson, of course, fully reserves all of her rights and remedies in connection with the matters addressed above.

Sincerely,

A handwritten signature in black ink, appearing to read "D. B. Smallman", with a long horizontal flourish extending to the right.

David B. Smallman

cc: Lisa E. Davis, Esq.

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Date:	May 4, 2007		
To:	Tricia S. Wellman, Esq. Associate General Counsel	Fax:	202-201-1198
Company:	Office of the Director of National Intelligence	Phone:	202-201-1090
Subject:		Direct Dial:	
From:	David B. Smallman, Esq.		

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May 4, 2007

Tricia S. Wellman, Esq.
Associate General Counsel
Office of the Director of National Intelligence
Office of General Counsel
Washington, D.C. 20511

Dear Ms. Wellman:

I have received your May 4, 2007 letter. While I disagree with your assertion that it would be unreasonable to expect a full response today to the letter received by Mr. McConnell a week ago, I do understand that you were out of your office for the past two days and did not have the opportunity to review my May 2, 2007 letter to Mr. Powell until this morning. Based upon the representations in your letter and the assurance that the matters raised in my April 27, 2007 and May 2, 2007 letters remain under review by the Office of General Counsel, I will follow up with you regarding those matters on Tuesday, May 8th.

Sincerely,

David B. Smallman / MB

David B. Smallman

cc: Lisa E. Davis, Esq.

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May 11, 2007

Tricia S. Wellman, Esq.
Associate General Counsel
Office of the Director of National Intelligence
Office of General Counsel
Washington, D.C. 20511

Re: Prior Restraint of Publication of Valerie Plame Wilson's Memoir

Dear Ms. Wellman:

Following our telephone call on Wednesday, May 9, we agreed to speak again on Friday, May 11. Today, I attempted twice to contact you by telephone at your office, first at approximately noon, then again at about 4 p.m. Both times, I left voicemail messages requesting that you contact me today. My initial message also noted that the Director of National Intelligence ("DNI") has an obligation to act promptly to approve or disapprove the request for his intervention in the pending dispute with CIA, as described in my letters dated April 27, 2007 and May 2, 2007 to Mr. McConnell and Mr. Powell, respectively. Neither call was returned during regular business hours. As of 9:45 p.m. this evening, I still have not received any response from you or anyone at the Office of the Director of National Intelligence ("ODNI").

During our May 9 telephone call, you informed me that matters addressed in the aforementioned letters "remain under review" by the Office of General Counsel. When I inquired about the timeframe for completion of the review, you could not provide me with any specific time limit and said that you would contact me when the review was completed. I stated to you that while I understood that DNI needed a reasonable opportunity to review the request, ODNI's review could not be open ended or continue indefinitely because of the ongoing prior restraint at issue, and that my clients would be obligated to take appropriate measures in the event a timely determination could not be reached. You stated that you understood.

As of this evening, May 11, it has been a full two weeks from the date the DNI received my April 27, 2007 letter requesting review of CIA's conduct in violation of the First Amendment. In the absence of a specific and reasonable time limit on official decisionmaking regarding DNI's oversight role pursuant to 50 U.S.C. § 403-1(f)(1)(B)(4), and given the objectively reasonable amount of time your office has had to review the materials received under the circumstances presented, further delay would impermissibly provide DNI with essentially unreviewable authority to suppress speech arising from CIA's content-based, unconstitutional prior restraint of officially acknowledged information in the public domain. *See, e.g., United*


Tricia S. Wellman, Esq.
Associate General Counsel
May 11, 2007
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States v. Marchetti, 466 F.2d 1309, 1317 (4th Cir. 1972) (“CIA must act promptly to approve or disapprove any material which may be submitted to it Undue delay would impair the reasonableness of the restraint, and that reasonableness is to be maintained if the restraint is to be enforced”); *United States v. Quattrone*, 402 F.2d 304, 310 n.5 (2d Cir. 2005) (“Governmental action constitutes a prior restraint when it is directed to suppressing speech because of its content before the speech is communicated”). *Cf. Beal v. Macdonald*, 184 F.3d 117, 127-298 (2d Cir. 1999) (“prior restraint schemes that fail to place specific and reasonable time limits on official decisionmaking and to provide for prompt judicial review of adverse decisions are impermissible”) (citing *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215, 228, 107 L. Ed. 2d 603, 110 S. Ct. 596 (1990) and *Freedman v. Maryland*, 380 U.S. 51, 58-59, 13 L. Ed. 2d 649, 85 S. Ct. 734 (1965)).

As Director of National Intelligence, Mr. McConnell has broad authority to protect the institutional interests of the Intelligence Community. CIA has an obligation to comply with the Constitution and laws of the United States with respect to disclosure of officially acknowledged information. This obligation extends to its legal duty to ensure that the Agency’s pre-publication review process is reasonably structured to prevent publication only of properly classified materials. When CIA fails to do so, as occurred in connection with Valerie Wilson’s manuscript, the DNI can and should require prompt corrective action.

Because of DNI’s oversight function and ultimate responsibility to prevent CIA from violating the First Amendment and other laws of the United States, it was the duty of the DNI to require that CIA and its Director, General Hayden, allow Valerie Wilson and Simon & Schuster to publish the start date and duration of her CIA employment previously disclosed by the Agency and to rescind immediately CIA’s unlawful effort to classify or reclassify information which its official acknowledgment caused to enter the public domain irretrievably. By letter dated April 27, 2007, Valerie Wilson, through her counsel, requested that Mr. McConnell, in his official capacity as DNI, overrule CIA’s erroneous determination. To date, Mr. McConnell has declined to do so, and has therefore failed to carry out DNI’s legal obligation to ensure CIA’s compliance with the Constitution and laws of the United States.

Please contact me at 917.414.0182 if you wish to discuss this letter.

Sincerely,

David B. Smallman

cc: Lisa E. Davis, Esq.

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May 17, 2007

Tricia S. Wellman, Esq.
Associate General Counsel
Office of the Director of National Intelligence
Office of General Counsel
Washington, D.C. 20511

Re: Prior Restraint of Publication of Valerie Plame Wilson's Memoir

Dear Ms. Wellman:

Following our telephone call on Monday, May 14, we agreed to speak again on Wednesday, May 16. During that call, I also requested a specific timeframe for a response from the DNI to our pending request, but you would not provide one. I attempted to reach you by telephone at your office yesterday at approximately 6 p.m. I left a voicemail message requesting that you contact me on my cell phone to let me know whether a response was available to the prior communications delivered to your office.

I again attempted to reach you by telephone today, but as of 2:30 pm, Thursday, May 17, I have not received a response to my telephone calls on Wednesday or today, or to the request received by the DNI on April 27, 2007. The DNI has the authority to protect the institutional interests of the Intelligence Community. CIA has an obligation to comply with the Constitution and laws of the United States with respect to disclosure of officially acknowledged information. This obligation extends to its legal duty to ensure that the Agency's pre-publication review process is reasonably structured to prevent publication only of properly classified materials. When CIA fails to do so, as occurred in connection with Valerie Wilson's manuscript, the DNI can and should require prompt corrective action.

I am disappointed that the DNI has repeatedly declined to provide a specific timeframe for a response to the April 27, 2007 request, and, to date, has also declined to provide a substantive response to the April 27, 2007 request and my subsequent letter to Mr. Powell. Because the DNI has failed to carry out his legal obligation to ensure CIA's compliance with the Constitution and laws of the United States, Valerie Wilson and her publisher fully reserve their rights to pursue any available rights and remedies they may have under applicable law.

Sincerely,

David B. Smallman/mb

David B. Smallman

cc: Elisa M. Rivlin, Esq.
Lisa E. Davis, Esq.